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SACRAMENTO COURTS
DEPT #63 #54

9 SUPERIOR COURT OF CALIFORNIA
10 COUNTY OF SACRAMENTO

12 **PEOPLE OF THE STATE OF CALIFORNIA, ex**
rel. BILL LOCKYER, Attorney General of the State
13 **of California,**
14 **Plaintiff,**
15 **v.**
16 **M/S MOHANLAL HARGOVINDDAS, a foreign**
corporation, and DOES 1 through 10, inclusive,,
17 **Defendants.**
18

03AS06664

~~PROPOSED~~ JUDGMENT BY
COURT AFTER ENTRY OF
DEFAULT

19 THIS MATTER is before the Court on *Plaintiff's Request for Entry of Default*
20 *Judgment* against defendant M/S MOHANLAL HARGOVINDDAS ("MOHANLAL.") This
21 Court has considered *Plaintiff's Request for Entry of Default Judgment* and accompanying
22 declarations, papers and exhibits thereto, and the entire record in this matter and hereby finds as
23 follows:

- 24 1. The Attorney General of the State of California brings this action on behalf of
25 plaintiff, the People of the State of California, pursuant to California Health and Safety Code
26 section 104557(c), to enforce the reserve fund requirements of California Health and Safety Code
27 sections 104555-104557 and California Business and Professions Code section 17200 et seq.
28 2. Defendant MOHANLAL manufactures cigarettes intended for sale in the United

1 States and thus falls within the statutory definition of a "tobacco product manufacturer" as
2 defined in California Health and Safety Code section 104556(i). The defendant has sold and
3 continues to sell cigarettes (as defined in section 104556(d)) directly or indirectly, to consumers
4 in California and, accordingly, has transacted and is transacting business within the State of
5 California.

6 3. At least thirty (30) days have passed since the date of service of the Summons and
7 Verified Complaint on the defendant and the defendant has failed to appear and defend in this
8 Court.

9 4. Defendant MOHANLAL was not at the time of service of the Summons and
10 Verified Complaint, nor is now, an infant or minor, a financially incapable, incapacitated or
11 incompetent person, nor in the military service as defined by Article 1 of the "Soldiers' and
12 Sailors' Civil Relief Act of 1940" as amended (50 U.S.C. Appen. § 501 et seq.).

13 5. Jurisdiction has been reviewed and is proper over the defendant pursuant to
14 California Code of Civil Procedure section 410.10.

15 6. Venue has been reviewed and is proper pursuant to California Code of Civil
16 Procedure section 393.

17 7. Defendant MOHANLAL has failed and continues to fail and/or otherwise comply
18 with the reserve fund requirements of California Health and Safety Code, sections 104555-
19 104557 and implementing regulations (Calif. Code of Reg., tit. 11, §§ 999.10a through 999.14).

20 8. The defendant has engaged in and continues to engage in acts of unfair
21 competition as defined in California Business & Professions Code section 17200, in that the
22 defendant has failed to establish the required reserve fund and failed to certify compliance to the
23 Attorney General, in violation of California Health and Safety Code sections 104555, 104556,
24 and 104557 and implementing regulations.

25 9. Notwithstanding notice, the defendant failed to certify to the Attorney General
26 that a qualified escrow fund (as defined in California Health and Safety Code section 104556(f))
27 has been established and also failed to make the annual deposits as required under California
28

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1 Health and Safety Code section 104557. Accordingly, the defendant's actions constitute
2 "knowing" violations.

3 10. The defendant has committed two or more knowing violations of California
4 Health and Safety Code section 104557 and is therefore subject to the maximum sanctions and
5 penalties provided for under the reserve fund requirements of California Health and Safety Code
6 section 104557.

7 **THEREFORE**, default having been entered by the clerk against defendant
8 MOHANLAL, as requested by plaintiff, **JUDGMENT** is accordingly entered in favor of the
9 plaintiff and against the defendant with respect to all claims, **AS FOLLOWS**:

10 A. The defendant shall, within fifteen (15) days of this Order, establish a qualified
11 escrow fund and place into said fund the following amounts as such amounts are adjusted for
12 inflation as required by California Health and Safety Code section 104557(a)(2):

13 **Sales during the year 2000:**

14 **(299,100 units x \$0.0104712) plus 6.48841% for inflation for a total of**
15 **\$3,335.14;**

16 **Sales during the year 2001:**

17 **(314,000 units x \$0.0136125%) plus 9.68306% for inflation for a total of**
18 **\$4,689.70; and**

19 **Sales during the year 2002:**

20 **(154,400 units x \$0.0136125%) plus 12.97355% for inflation for a total of**
21 **\$2,374.44.**

22 **Total (2000-2002 sales): \$10,399.28**

23 B. The defendant shall, within fifteen (15) days of this Order, provide plaintiff with a list
24 of the names of all of the cigarette brands manufactured by MOHANLAL as well as unit sales
25 information and supporting documentation for its sales in California in 2000, 2001 and 2002.

26 C. The defendant shall, within fifteen (15) days of this Order, pay civil penalties in the
27 amount of 300% of the escrow amounts improperly withheld, for a total of **\$31,197.84** for
28 knowingly violating California Health and Safety Code section 104557(a)(2), (c), by failing to
certify compliance with California's reserve fund statute to the Attorney General and knowingly

1 failing to establish a qualified escrow fund as defined under California Health and Safety Code
2 section 104556(f) and knowingly failing to deposit sufficient funds into a qualified escrow fund
3 as required under California Health & Safety Code section 104557.

4 D. Pursuant to California Health and Safety section 104557(c)(3), the defendant is
5 hereby enjoined and otherwise prohibited from selling *any* cigarettes in California for a two-year
6 period commencing from the date of this Order, either directly or through a distributor, retailer or
7 other intermediary, *including but not limited to*, the following brands: “Sher Bidi,” “Pahelwan
8 Bidi,” and “Guru Bidi.”

9 After the two-year ban elapses, the defendant shall make quarterly deposits into a
10 qualified escrow fund for five (5) years after the defendant is permitted to resume selling
11 cigarettes in California, directly or through a distributor, retailer or similar intermediary.

12 E. Pursuant to Business and Professions Code section 17206, the defendant shall, within
13 fifteen (15) days from the date of this Order, pay a penalty of \$2,500.00 for each violation of
14 Business and Professions Code section 17200 alleged in the Third Cause of Action, for a total
15 assessed penalty of **\$10,000.00**.

16 F. The defendant shall, within fifteen (15) days from the date of this Order, appoint an
17 agent for service of process in California for any action to enforce any resulting injunction(s)
18 and/or judgment in the within action.

19 G. The Court shall retain jurisdiction in this matter.

20 H. The defendant shall within fifteen (15) days of this Order, pay all plaintiff’s
21 reasonable costs, including but not limited to filing fees in the amount of **\$241.50** pursuant to
22 Government Code section 6103.5 and subject to modification and/or further relief as this Court
23 deems just and proper.

24 I. The Court further orders, as just and appropriate, the following:

25 1) Name/Address of Judgment Creditor:
26 State of California
27 c/o Department of Justice–Office of the Attorney General
1300 I. Street
28 P.O. Box 944255
Sacramento, CA 94244-2550

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2) Name/Address/Phone-Judgment Creditor's Attorney:
Michele M. DeCristoforo
Deputy Attorney General
Department of Justice-Office of the Attorney General
1300 I. Street
P.O. Box 944255
Sacramento, CA 94244-2550
(916) 323-3795

3) Name/Address-Judgment Debtor:
M/S MOHANLAL HARGOVINDDAS
MH HOUSE
903 Gole Bazar
IND-482-002
Jabalpur, INDIA.

4) Principal Amount of Judgment for Escrow: **\$ 10,399.28**

5) Principal Amount of Judgment for Penalties: **\$ 41,197.84**
(Health & Saf. Code, §104557 and Bus. & Prof. Code,
§ 17200 et seq)

6) Costs: **\$ 241.50**

7) Post-judgment simple interest at the rate of ten percent (10%) per annum on the total judgment which consists of item 5 from the date of judgment is entered until fully paid. Interest is compounded annually.

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: Mar - 1 2004, 2004

SHELLEYANNE W.L. CHANG

Judge of the Superior Court